

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ROBERT JOSEPH LEON,)	CASE NO. C07-0462-MJP
)	
Plaintiff,)	
)	
v.)	REPORT AND RECOMMENDATION
)	
NORM MALENG, et al,)	
)	
Defendants.)	
_____)	

On March 28, 2007, plaintiff Robert Leon presented to this Court for filing a civil rights complaint under 42 U.S.C. § 1983 together with an application to proceed with this action *in forma pauperis*. Plaintiff alleged in his complaint that on August 1, 2000, he was unlawfully detained by the named defendants and by the Seattle Police Department. Plaintiff identified as defendants in his complaint King County Prosecutor Norm Maleng, and King County Deputy Prosecuting Attorneys Ernsdorf, Snow, Tait, and Schindler. Plaintiff sought \$20 million in actual damages and \$100 million in punitive damages for the 62 days he was held in the King County Jail before a VUCSA charge that had been filed against him was dismissed, apparently on speedy trial grounds.

01 On April 30, 2007, plaintiff's application for leave to proceed *in forma pauperis* was
02 granted and his complaint was filed. (*See* Dkt. Nos. 6 and 7.) On the same date, this Court issued
03 an Order directing plaintiff to show cause why his complaint should not be dismissed pursuant to
04 28 U.S.C. § 1915(e)(2)(B)(iii) because all of the named defendants appeared to be immune from
05 liability under § 1983. (Dkt. No. 8.) Plaintiff was given thirty days within which to respond to
06 the Order to Show Cause. (*Id.*)

07 On June 4, 2007, the Clerk of Court received a letter from plaintiff in which plaintiff
08 requested that he be permitted to withdraw his *in forma pauperis* status and that the Federal
09 Public Defender be appointed to represent him in this action. (Dkt. No. 11.) Plaintiff also
10 requested a change of venue to the United States District Court for the District of Oregon. (*Id.*)
11 Plaintiff did not respond in any substantive fashion to this Court's directive that he show cause
12 why this action should not be dismissed pursuant to § 1915(e)(2)(B)(iii). Accordingly, on August
13 2, 2007, this Court issued another Order to Show Cause in which it denied each of the requests
14 contained in plaintiff's June 4, 2007, letter and once again ordered plaintiff to show cause, within
15 thirty days, why this action should not be dismissed pursuant to § 1915(e)(2)(B)(iii). (Dkt. No.
16 13.) Plaintiff was advised that his failure to timely respond to the Second Order to Show Cause
17 would result in a recommendation that this action be dismissed. (*Id.*)

18 The Court mailed its August 2, 2007, Second Order to Show Cause to plaintiff at his
19 address of record. However, that mail was returned to the Court on August 14, 2007, with a
20 notation indicating that it was undeliverable because plaintiff was no longer at that address. (Dkt.
21 No. 14.) On August 20, 2007, the Court received a letter from plaintiff in which plaintiff provided
22 a new address. (Dkt. No 15.) On the same date, the Clerk's Office re-mailed this Court's Second

01 Order to Show Cause to plaintiff at his new address. To date, plaintiff has filed no response to
02 the Court's Second Order to Show Cause.

03 When a complaint is frivolous, malicious, fails to state a claim on which relief may be
04 granted, or seeks monetary relief against a defendant who is immune from such relief, the Court
05 may dismiss an *in forma pauperis* complaint before service of process under 28 U.S.C. §
06 1915(e)(2)(B). Plaintiff has been advised that his complaint is subject to dismissal because of his
07 failure to identify any defendant who is not immune from liability under § 1983, and he has been
08 given ample opportunity to demonstrate to the Court that his action should not be dismissed.
09 Plaintiff has made no effort to show cause why his action should not be dismissed. Accordingly,
10 this Court recommends that plaintiff's complaint, and this action, be dismissed with prejudice
11 pursuant to 28 U.S.C. § 1915(e)(2)(B)(iii). A proposed order accompanies this Report and
12 Recommendation.

13 DATED this 17th day of October, 2007.

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15 Mary Alice Theiler
16 United States Magistrate Judge
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